

SHUMWAY VAN

MICHAEL C. VAN, ESQ.

Nevada Bar No. 3876

ROBERT A. RYAN, ESQ.

Nevada Bar No. 12084

KARL A. SHELTON, ESQ.

Nevada Bar No. 12868

8985 South Eastern Avenue, Suite 100

Las Vegas, Nevada 89123

Telephone: (702) 478-7770

Facsimile: (702) 478-7779

Email: michael@shumwayvan.com

rob@shumwayvan.com

karl@shumwayvan.com

*Attorneys for Defendant***UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

GEORGE DEMETRIUS KARALIS, M.D.,

Plaintiff,

vs.

THE GUN VAULT, INC. AND KELLY D.
CARN,

Defendants.

Case No.: 2:12-cv-00694-KJD-GWF

STATUS REPORT

Defendants, THE GUN VAULT, INC. and KELLY D. CARN, by and through their attorney of record, the law offices of Shumway Van, respectfully submit this Status Report in regard to the above-stated matter.

1. On April 24, 2015, this Court issued a Subpoena ordering Detective Noe Larios to appear for a deposition scheduled on May 26, 2015 at 9:00 a.m. at the law firm of Shumway Van, 8985 South Eastern Ave. Ste 100, Las Vegas, Nevada 89123.

2. Notice was properly sent to all parties to this action on April 29, 2015 and Detective Larios was served with this subpoena on May 5, 2015.

SHUMWAY VAN & HANSEN

8985 South Eastern Avenue, Suite 100

Las Vegas, Nevada 89123

Telephone: (702) 478-7770 Facsimile: (702) 478-7779

1 3. On May 13, 2015, Karl A. Shelton, Esq. of the law firm Shumway Van received
2 an e-mail from Daniel Cronin of the U.S. Department of Justice, Bureau of Alcohol, Tobacco,
3 Firearms and Explosives (ATF), stating that no person from that agency would be attending the
4 scheduled deposition. This e-mail is attached as "Exhibit A."

5 4. Attached to the e-mail was a letter from Mr. Cronin further explaining that ATF
6 considered Detective Larios to be an "assigned Task Force Officer" in relation to his role and
7 knowledge of this matter, and as such, any disclosure of information by Detective Larios would
8 need to be authorized by the United States Attorney. This letter is attached as "Exhibit B."

9 5. This letter further instructed our office to send a statement to the United States
10 Attorney for the District of Nevada, Troy Flake, setting forth a summary of the testimony sought
11 from Detective Larios as well as a summary of the information sought and its relevance to the
12 proceedings.

13 6. Our office contacted the Mr. Flake, regarding this requested statement, and we
14 received a response from Mr. Flake with delivery instructions for the information and a
15 statement that Detective Larios' scheduled deposition would not go forward until his testimony
16 was authorized. This e-mail response from Troy Flake is attached as "Exhibit C."

17 7. Our office drafted and sent this statement as requested, but have yet to receive a
18 response. This letter to the United States Attorney is attached as "Exhibit D."

19 8. On May 26, 2015 at 9:00 a.m., Detective Larios did not appear for the deposition
20 and no deposition was taken.

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28

1 9. This Status report is accompanied by the Affidavit of Michael Van Re: Detective
2 Larios Deposition.

3
4 Dated this 5th day of June, 2015

5
6 /s/ Michael C. Van

7 SHUMWAY VAN
8 MICHAEL C. VAN, ESQ.
9 Nevada Bar No. 3876
10 ROBERT A. RYAN, ESQ.
11 Nevada Bar No. 12084
12 KARL A. SHELTON, ESQ
13 Nevada Bar No. 12868
14 8985 South Eastern Ave., Suite 100
15 Las Vegas, Nevada 89123

SHUMWAY VAN & HANSEN
8985 South Eastern Avenue, Suite 100
Las Vegas, Nevada 89123
Telephone: (702) 478-7770 Facsimile: (702) 478-7779

EXHIBIT A

From: Daniel.D.Cronin@usdoj.gov [mailto:Daniel.D.Cronin@usdoj.gov]
Sent: Wednesday, May 13, 2015 7:07 AM
To: 'karl@shumwayvan.com'
Cc: Troy.Flake@usdoj.gov
Subject: Deposition process

Dear Sir,

In order to avoid any potential confusion, no one from the agency will be appearing on May 25, 2015 to be deposed in this matter.

Respectfully,
Dan Cronin

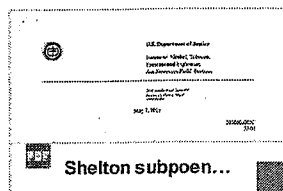


EXHIBIT B



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives
San Francisco Field Division

5601 Arnold Road, Suite 400
Dublin, California 94568
www.atf.gov

May 7, 2015

208050:DDC
3300

Karl A. Shelton, Esq.
Shumway, Van & Hanson
8985 South Eastern Ave., Suite 100
Las Vegas, NV 89123

Re: *Karalis v. The Gun Vault, Inc. et al.*, Civ. No. 2:12-CV-00694-APG-GFW (D. Nev)

Dear Mr. Shelton:

This responds to the Subpoena to Testify at a Deposition in a Civil Action issued on May 4, 2015 to Las Vegas Metropolitan Police Department Detective Noe Larios in the above-referenced matter. Please be advised that Detective Larios is an assigned Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and, as such, is considered an ATF employee for matters involving the disclosure of ATF information. ATF is an agency of the United States Department of Justice and the disclosure of information by ATF in court proceedings is subject to regulations found at 28 C.F.R. Part 16. These regulations forbid the disclosure of information by ATF in this matter unless authorized by the United States Attorney. See *United States ex rel. Touhy v. Ragen*, 340 U.S. 402 (1951).

Specifically, Department of Justice regulations provide that in any Federal or State case or matter in which the United States is not a party, no employee of the Department of Justice shall, in response to a demand, produce any material contained in the files of the Department, or disclose any information relating to or based upon material acquired as part of the performance of that person's official duties or disclose any information or produce any material acquired because of that person's official status without prior approval of the proper Department official. 28 C.F.R. § 16.22(a). Since the United States is not a party to the above-captioned action and the subpoena calls for the personal appearance and oral testimony by an ATF Task Force Officer, your demand must be accompanied by an affidavit or statement setting forth a summary of the testimony sought from these employees and its relevance to the proceedings. 28 C.F.R. § 16.22(c). If information other than oral testimony is also being sought by these subpoenas, you must also

-2-

Karl A. Shelton, Esq.

provide a summary of the information you are seeking and its relevance to the proceedings. 28 C.F.R. § 16.22(d). We also note that the disclosure of Department of Justice information will not be authorized when disclosure would reveal a confidential source or informant or would reveal investigatory records compiled for law enforcement purposes that would impair investigative techniques and procedures. 28 C.F.R. § 16.26(b)(4) and (5).

Therefore, in accordance with the procedures set forth above, any subpoena or demand for testimony, documents, materials or records maintained by ATF must be directed, with the appropriate affidavit or statement, to the United States Attorney's Office for a determination as to whether the demand for disclosure will be authorized. You may submit an appropriate request to Assistant United States Attorney Troy Flake, United States Attorney's Office, District of Nevada, 701 E. Bridger Ave., #800, Las Vegas, Nevada 89101.

If you have any questions regarding these procedures, you may contact me at (925) 557-2896.

Sincerely yours,



Daniel Cronin
Attorney

c: Troy Flake
Assistant United States Attorney

Andrew Duncan
Assistant United States Attorney

EXHIBIT C

Karalis v. Gun Vault

Flake, Troy (USANV) [Troy.Flake@usdoj.gov]

Sent: Wednesday, May 20, 2015 12:55 PM**To:** Daniel Hansen**Cc:** Karl A. Shelton; Cronin, Daniel D. (ATF) [Daniel.D.Cronin@usdoj.gov]

Daniel,

Thank you for your call. As we discussed, the 28 CFR 16.22 request should be addressed to:

Daniel Bogden
United States Attorney
District of Nevada
333 Las Vegas Blvd. S. #5000
Las Vegas, NV 89101

If you also send it via email via PDF to me, I will begin processing the request immediately.

Also, as we discussed, Mr. Larios' scheduled deposition will not go forward unless and until his testimony is authorized pursuant to 28 CFR 16.21 et seq.

Thanks, and please let me know if you have any questions.

Troy Flake
Assistant United States Attorney
District of Nevada
333 Las Vegas Blvd., S., #5000
Las Vegas, Nevada 89101
Phone: 702-388-5071
Email: troy.flake@usdoj.gov

EXHIBIT D

SHUMWAY • VAN

General Inquiries:
info@shumwayvan.com
Website: www.shumwayvan.com
Toll Free: (800) 868-1341

From the desk of Karl A. Shelton, Esq.
Licensed in Nevada
This correspondence is from the Las Vegas office.

May 21, 2015

Daniel Bogden, Esq.
United States Attorney
District of Nevada
333 Las Vegas Blvd. S. #5000
Las Vegas, NV 89101

Re: *Karalis v. The Gun Vault, Inc. et al.*, Civ. No. 2:12-CV-00694-APG-GFW (D. Nev)

Dear Mr. Bogden:

This letter is in response to correspondence from Daniel Cronin of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regarding the Subpoena to Testify at a Deposition in a Civil Action issued on May 4, 2015 to Las Vegas Metropolitan Police Department Detective Noe Larios in the above-referenced matter. Mr. Cronin has informed our office that the ATF considers Detective Larios to be an ATF employee for matters involving the disclosure of ATF information.¹ As such, pursuant to 28 C.F.R. § 16.22(c), I am contacting you to set forth a summary of the testimony sought from Detective Larios and the relevance of that testimony to these proceedings.

Detective Larios has been named as an expert witness for the Plaintiff in this matter. Our office represents the Defendants and, therefore, we are seeking to depose Detective Larios to determine what testimony he has that may be relevant to this matter. In this deposition we will be requesting information regarding Detective Larios' knowledge of the facts and circumstances related to the seizure of firearms, computers, hard drives, electronically stored information, business records of defendants by law enforcement, and the current whereabouts of said seized items. As the detective is a witness for the Plaintiff, we do not know what information he possesses at this time, but we anticipate that his testimony will be related to the seizure and the whereabouts of the firearms in question. We will not be seeking disclosure that would reveal a confidential source or informant or would reveal investigatory records compiled for law enforcement purposes that would impair investigative techniques and procedures. See 28 C.F.R. § 16.26(b)(4) and (5).

If you have any questions, you may contact me at (702) 570-6715.

Sincerely,



Karl A. Shelton, Esq.

c: Email copy to Troy Flake troy.flake@usdoj.gov

¹ This office has serious reservations regarding the ATF's designation of LVMPD Detective Larios as an "employee" of the ATF solely by virtue of his participation in a Metro/ATF task force and expressly reserves the right to seek court intervention compelling Det. Larios' testimony at deposition with regard to any and all relevant, non-privileged information he may possess with regard to the above referenced matter.

SALT LAKE CITY OFFICE
8 East Broadway, Suite 550, Salt Lake City, Utah 84111
Ph: (801) 478-8080 – Fx: (801) 478-8088

SAN ANTONIO OFFICE
310 S St Mary's St. Suite 2100, San Antonio, Texas 78205
Ph: (210) 888-0235 – Fx: (210) 503-2888

LAS VEGAS OFFICE
8985 South Eastern Avenue, Suite 100, Las Vegas, Nevada 89123
Ph: (702) 478-7770 – Fx: (702) 478-7779

CERTIFICATE OF SERVICE

I do hereby certify that on the 5th day of June, 2015 I served a true and correct copy of the above foregoing **STATUS REPORT** by depositing same in the United States Mail, first class postage fully prepaid thereon, address as follows:

Nick D. Crosby
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145


George D. Karalis, M.D.
235 Camino Del Mar
San Francisco, CA 94121-114

Las Vegas Metropolitan Police Department
Detective Noe Larios P#7166
Communications Bureau
400 S. Martin Luther King Blvd
Las Vegas, Nevada 89106

Las Vegas Metropolitan Police Department
Office of General Counsel
Attn: Charlotte Bible, Assistant General Counsel
400 S. Martin Luther King Blvd
Las Vegas, Nevada 89106

Steven B. Wolfson
Shanon Clowers
Clark County District Attorney
Criminal Division
200 Lewis Avenue
Las Vegas, Nevada 89101

Daniel G. Bogden
Andrew W. Duncan
U.S. District Attorney's Office, District of Nevada
333 Las Vegas Boulevard South, Suite 5000
Las Vegas, Nevada 89101


An employee of Shumway Van

SHUMWAY VAN & HANSEN

8985 South Eastern Avenue, Suite 100

Las Vegas, Nevada 89123

Telephone: (702) 478-7770 Facsimile: (702) 478-7779